IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 1948 of 1999

Between:

1 T.Ramesh Babu, S/o Venkata Ramanaiah,
R/o Cuddapah
2 P.Sanjeevaiah, S/o Venkatesu,
R/o Pedda Bestha Street, Cuddapah.
3 K.Rama Krishna, S/o Krishnappa,
R/o Cuddapah
4 G.Eawara Suresh Babu, S/o Viswanandham, Hindu,
R/o Cuddapah
5 T.Nagaraja, S/o Muniswamy, Hindu,
R/o Cuddapah.

..... PETITIONERS

AND

1 A.P.S.E.Board, rep. by its Secretary, Vidyuth Soudha,
Somajiguda, Hyderabad.
2 Superintending Engineer (Operation), A.P.S.E.Board,
Cuddapah.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue any writ, order or direction more particularly one in the nature of writ of mandamus directing the respondents to absorb the petitioners in the suitable vacancies in the respondent Board in terms of B.P.(P&G Per) Ms.No.36, dt.18-5-97 by setting aside the impugned Proc.vide Lr.No.SE/O/CDP/Adm/C2/FES/D.No.1915/98, dt.18-9-98 passed by the 2nd respondent in all cases of the petitioners herein with all consequential and attendant benefits

Counsel for the Petitioner: MR.B.M.PATRO

Counsel for the Respondent No.: MR.S.RAVINDRANATH

The Court made the following ORDER:

This writ petition is filed seeking a *Mandamus* directing the respondents to absorb the petitioners in suitable vacancies in the respondents-Andhra Pradesh State Electricity Board (for short 'the Board') in terms of B.P(P&G Per)Ms.No.36, dated 18.05.1997 by setting aside the impugned proceedings dated 18.09.1998 with all consequential benefits.

It is the case of the petitioners that they have discharged the duties of Revenue Cashiers engaged by the Board through an intermediary i.e., Lions Club, Kadapa. They have rendered services from 1987 to 1993 and they were engaged for collection of Electricity Bills for and on behalf of the Board and they were paid salaries by the Contractors i.e., Lions Club, Kadapa from out of the amounts paid by the Board. They possessed all the necessary qualifications to hold the said posts of Revenue Cashiers. The works, which they have attended, are perennial in nature. They have furnished security deposits to the Board and the said deposits are still lying with it. The petitioners were also issued with Identity Cards by the Officers of the Board and they were treated as contract labour hitherto by the Board. While so, the Board issued a circular *vide* B.P(P&G Per)Ms.No.36, dated 18.05.1997 intending to absorb three categories of persons namely Ex-Casual Labour, Contract Labour and Village Electricity Workers, who worked under its control through various agencies. The petitioners worked under the control of the second respondent as Contract Labour. However, they were not covered by the 33 abolished categories in power generating stations and therefore they are entitled to be absorbed in the Board in terms of B.P.Ms.No.36 dated 18.05.1997. Therefore, they have approached the second respondent to consider their cases. Since their cases were not considered, they have approached this Court by way of filing Writ Petition No.14109 of 1997 and the same was disposed of on 22.10.1997 in terms of

the judgment rendered by this Court in W.P.No.13798 of 1997. In pursuance of the directions of this Court dated 22.10.1997, they were all interviewed by the Selection Committee on 03.04.1998. However, their cases were rejected on the ground that they do not come under the purview of Contract Labour as per the observations of the Supreme Court in SLP No.11335/94, dated 11.07.1994, award in I.D.No.78 of 1992, and under Act 2 of 1974. According to the petitioners, they are entitled for being considered as Contract Labour as per B.P.Ms.No.36 dated 18.05.1997 and therefore, rejection of their cases by the respondents is arbitrary and illegal. Hence, the present writ petition.

A detailed counter-affidavit has been filed on behalf of the respondents disputing and denying the allegations made by the petitioners. It is asserted that the respondent Board had entrusted the work of preparation of Electricity Bills, serving of the same to the consumers and collection of bill amount from the consumers etc., on commission basis to different intermediary agencies like Lions Club, Kadapa and certain chartered Accountants etc. The petitioners might have been employed by the voluntary organizations and hence there is no relationship of Master and Servant between the Board and the petitioners. No payments were made by the Board directly to the petitioners and the salaries were paid by the Voluntary agencies only out of the commission gained by them. Further, they are not all contract labour since they worked directly under voluntary agencies. Therefore, the contention of the petitioners that they are the contract labour is false and untrue. Further, mere possessing of qualification does not entitle them for absorption in the respondent Board and the petitioners do not come under the category of contract labour as the work they were doing was entrusted on commission basis but not on contract basis and the B.P.Ms.No.36 dated 18.05.1997 has no application to the cases of the petitioners. Therefore, the question of absorbing the petitioners while filling up 50% of the existing vacancies as per B.P.Ms.No.36 dated 18.05.1997 does not arise.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the material available on record.

At the outset, I am of the opinion that the claim of the petitioners is only speculative and imaginary. The very proceedings rejecting the claim of the petitioners would indicate as under:

> *"2. In pursuance of the above order of High Court, you have been interviewed by the Selection committee on 03.04.1998 along with*

other petitioners.

3. As per award in I.D.No.78/92, you do not come under the purview of Contract Labour and alos as per the observations of the Supreme Court in SLP No.11335/94 dt. 11.07.1994 Act 2 of 1974 applies to you and you are not eligible for appointment in APSE Board on regular basis.

4. In view of the above, your case for appointment for the suitable post is rejected as you have not fulfilled the above conditions.

5. For the reasons mentioned above, the communication in this letter shall be deemed that, your case has been considered in accordance with the orders of High Court and that orders were implemented in its entirety."

It is the case of the respondents that the petitioners would not fit into the definition of "Contract Labour" as contemplated under B.P.Ms.No.36 dated 18.05.1997.

Admittedly, the petitioners were engaged by the Agency, viz., Lions Club, Kadapa, who had undertaken the preparation of electricity bills, serving of the same to the consumers and collecting bill amounts from the consumers on commission basis and the petitioners were paid salaries by the said agency. Therefore, there was no Employer and Employee relationship between the respondents and the petitioners and they cannot be called as contract labour under the provisions of B.P.Ms.No.36 dated 18.05.1997. Hence, the respondents have rightly rejected the case of the petitioners since they do not fall under the category of contract labour. Therefore, the writ petition is devoid of merit and is liable to be dismissed.

The writ petition is accordingly dismissed. No order as to costs.

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C.V. Ramulu, J

Date:01.07.2005

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To

1 The Secretary, A.P.S.E.Board, Vidyuth Soudha,
Somajiguda, Hyderabad.
2 The Superintending Engineer (Operation), A.P.S.E.Board,
Cuddapah.

3 Two CD Copies